

# ‘My dear, the Noise, the People...’: On Fears about Assemblies

 [verfassungsblog.de/dear-noise-people-fears-assemblies/](http://verfassungsblog.de/dear-noise-people-fears-assemblies/)

Recent European Parliament election results will no doubt keep scholars of all sorts busy for a while. It seems to be the right moment for saying a word about the possible dangers that heightened attention to this institution (one among many in a coherent complex structure) can bring. We will no doubt hear about the deficient political cultures in the Member States and the potentially harmful effects that they might have on the glorious progress of the wonderful technocratic exercise, said to be spoiling all the fun. The Parliament is not the Parliament we like, it has to be stopped! ‘*Karaul usta!*’ – tapping into the wisdom of the proverbial revolutionary sailor Zhelezniak, who justified the destruction of the Russian Constitutional Convention roughly 100 years ago by the fact that the guards of the palace where it was deliberating ‘were tired’.

Such accounts are obviously about the nature of democracy – John Mueller’s ‘[Ralph’s pretty good grocery](#)’ for the minimal human being – not about any particular assembly. Moreover, quite logically, arguments against democracy, regretfully, frequently end up being arguments against the people: look how stupid, racist and uneducated they are! Do the latest election results give room for such arguments? Of course they do, yet the citizens of the Union are those whom the Union cannot choose and will have to accept: democracy teaches humbleness. The trouble is that the appeal of democracy and its win-win position compared with other forms of societal organization lies precisely in the fact that in a democracy the rulers do not need to be particularly enlightened or chosen with the help of divine intervention: no need to be Elizabeth II. They can be as silly and laughable as any passer-by in the street.

The good thing about this though is that democracy also implies alteration: today it is a silly man from the right – tomorrow an enlightened philosopher from the left and vice versa. Crying a wolf at a particular election outcome necessarily denies the whole idea of regular elections its dynamism and is thus rather unhelpful. Geert Wilders used to be particularly popular among the poor and the uneducated yesterday – he is not as popular among the poor and the uneducated today. It is obvious, however, that the election results we received pose serious questions.

While I see where [Dr. Belavusau](#) is coming from, interpreting away a (I dare say) functioning Parliament as a response to a particular elections result does not seem to be a sound approach to the problem, which can be identified as the EU’s – and the Member States’ – [crisis of values](#), now spilling over to the supranational level. Of course, a democracy of vile people will be vile, as Joseph Weiler has correctly remarked, but, do we have the reasons to believe that Europeans – those Britons and the Frenchmen in particular – are such a particularly nasty bunch? Any Parliament anywhere is a show, where not all the acts – and certainly not the wasteful staging, like the moving Brussels-Strasbourg circus, which is of course shameful – are to everyone’s enjoyment. Yet, it will not be difficult to achieve broad consensus that articulated debility and the promotion of hatred and obscurantism as of themselves contribute little to the solution of any problems, which Europe is facing today, thus failing *per se*, to make a contribution to the pro-active democratic process aimed at improving people’s lives. A distinction between the EU- and the Member State-level is most instrumental here: while the rise of UKIP tells a convincing story of the miserable quality of the British political life, whether it is of any consequential nature for the functionality and legitimacy of the EP is a rather different matter. Isn’t it wonderful that the UK and France are not alone in the Union?

The argument in what follows is simple: the EP is (at least) double shielded against any tangible negative consequences of the shameful election results going beyond the results themselves, i.e. going as far as the possibility of such results actually derailing vital policies. Such double shielding is not enough, bringing about a necessity to rethink the way how the Union is to react to the racist, homophobic and other democratic noise infecting it from the homophobic, demagogic, racist and simply stupid citizens, whom the Union nevertheless is bound to serve and to protect. How far should EU’s ‘militant democracy’ go and whether it should save us – self-appointed reasonable people – from the elections results as the ones announced last weekend or, which is a

radically different matter, from the negative effects of such results on the Union's policies, thus becomes a crucial point of discussion.

First about the double-shielding effects. 20<sup>th</sup> century history of Europe is the worst possible ode to democracy. Not enough joy. It is indispensable not to forget that the EU is a direct response to this history. That the response is technocratic and that the market has been chosen as the main tool (something that can and should be criticized, [at least at the current stage of integration](#)), is no coincidence at all. 'Europe' – either the EU, or the Council of Europe – is a way to protect the Member States from their own stupid, homophobic and racist people (among others). *This* is the main function of the Union, phrased in the Treaties as 'democracy, the rule of law' etc. etc.

In this context it is not a surprise that the likes of UKIP are not particularly happy with the EU. Indeed, the EU has been created to poison the lives of such political forces and restrain the states to the extent that the success of such forces would be difficult, if not impossible. Yet, as recent developments in the EU demonstrate with abundant clarity – take numerous Kim Lane Scheppele's writings on Hungary, for instance – this does not quite work as well as one would hope for. The EU is at the point when it is realizing how difficult it is to protect the Member States from self-inflicted harm, from 'the vile' as it were. [The tools are simply not there](#), as we are hard-pressed to discover. However, it is the hijacking of the Member States we rightly find problematic: FPÖ's Austria, Fidesz's Hungary – not the EP election results.

In a sense, the shielding of the EP from the vile has been a success due to, firstly, a natural reason: if one's programme is to hate Romanians, it is difficult to make a functioning Parliamentary group at the supranational level through uniting forces with those Romanian xenophobes thankfully accepting tax-payers money, whose only programme is to hate you. Xenophobia, as most other forms of hatred, is by definition parochial and the EP is the worst possible place for it: not the soil where it can bring dangerous fruit. Secondly, the EP is shielded from the vile by the very design of the inter-institutional balance: it is easier to agree with what the Commission, proverbially acting in the EU interest, proposes, than to disagree with that. Even if the xenophobes will somehow end up being unfaithful to their own election promises and decide one day to tame their hatred towards the supposed 'other' sitting next to them at the plenary, the structural involvement of the EP in the decision-making process will make it exceedingly difficult to capitalize on such unfaithfulness with regards to the xenophobes own 'ideas'.

Keeping such 'double shield' in mind, we can as well stop worrying and continue loving the European Union ([paraphrasing Gareth Davies](#)). Yet, the current state of affairs is most probably deficient, as the importance of the national elections results is naturally inflated and does not acquire proper contextualizing, which should necessarily take all the richness of the political landscape emerging at the supranational level into account. The remedies against turning EP elections into xenophobic crusades of the vile are seemingly simple and the Treaty – since many years ago – contains a way of solving this problem.

To make the EP a full-fledged Parliament (I disagree with Ulad that it is not a Parliament, believing that the ECtHR got it more or less right in [Matthews](#) in response to quite unfortunate UK claims: it *is* a Parliament and a special one at that), so to make it a full-fledged Parliament it is difficult to avoid real elections. These can only take place based on one electoral law, proposed by the EP itself, as the Treaties so require. The fact that the Council has been refusing to play along in bringing about clear European EP election rules is a scandal: the Member States should be rightly ashamed of obstructing reform – a clear unified procedure throughout would create an all-EU playing field enabling to go away from the current reality of fragmentation: the resulting EU-level mosaic does not quite emerge in all the heads.

More importantly, however, besides making EP elections truly European, one should ponder very seriously on the question of the eventual undermining of the institutional balance – the fundamental principle which has been working so well in the past. Regrettably, the *Spitzenkandidaten* idea can only be viewed as a step in precisely such a direction. Tying the Commission to the EP even more might result in undermining the Commission's main virtue, which is the technocratic impartial wisdom (visible to an idealistic eye at least) in the face of the other institutions which are politicized and concerned with something quite different from EU's own interest. Once EU interest is politicized, is it not quite a supranational interest any more, the firewall between the vile and the

coldhearted is then shattered. Whether this is the result we should want to achieve is a question open to debate. No doubt, politicization can help increasing the hype around the EU – akin to UKIP's hype – thereby pushing the Commission in the realm of the *irrational* political interest, which is often antithetical to the concerns of justice, fairness and long-term vision and undermining the basics of institutional balance. So do we want this for the EU?

---

LICENSED UNDER CC BY NC ND

SUGGESTED CITATION Kochenov, Dimitry: *'My dear, the Noise, the People...': On Fears about Assemblies*, *VerfBlog*, 2014/5/31, <http://verfassungsblog.de/dear-noise-people-fears-assemblies/>.

Recent European Parliament election results will no doubt keep scholars of all sorts busy for a while. It seems to be the right moment for saying a word about the possible dangers that heightened attention to this institution (one among many in a coherent complex structure) can bring. We will no doubt hear about the deficient political cultures in the Member States and the potentially harmful effects that they might have on the glorious progress of the wonderful technocratic exercise, said to be spoiling all the fun. The Parliament is not the Parliament we like, it has to be stopped! *'Karaul usta'* – tapping into the wisdom of the proverbial revolutionary sailor Zhelezniak, who justified the destruction of the Russian Constitutional Convention roughly 100 years ago by the fact that the guards of the palace where it was deliberating 'were tired'.

Such accounts are obviously about the nature of democracy – John Mueller's *'Ralph's pretty good grocery'* for the minimal human being – not about any particular assembly. Moreover, quite logically, arguments against democracy, regretfully, frequently end up being arguments against the people: look how stupid, racist and uneducated they are! Do the latest election results give room for such arguments? Of course they do, yet the citizens of the Union are those whom the Union cannot choose and will have to accept: democracy teaches humbleness. The trouble is that the appeal of democracy and its win-win position compared with other forms of societal organization lies precisely in the fact that in a democracy the rulers do not need to be particularly enlightened or chosen with the help of divine intervention: no need to be Elizabeth II. They can be as silly and laughable as any passer-by in the street.

The good thing about this though is that democracy also implies alteration: today it is a silly man from the right – tomorrow an enlightened philosopher from the left and vice versa. Crying a wolf at a particular election outcome necessarily denies the whole idea of regular elections its dynamism and is thus rather unhelpful. Geert Wilders used to be particularly popular among the poor and the uneducated yesterday – he is not as popular among the poor and the uneducated today. It is obvious, however, that the election results we received pose serious questions.

While I see where [Dr. Belavusau](#) is coming from, interpreting away a (I dare say) functioning Parliament as a response to a particular elections result does not seem to be a sound approach to the problem, which can be identified as the EU's – and the Member States' – [crisis of values](#), now spilling over to the supranational level. Of course, a democracy of vile people will be vile, as Joseph Weiler has correctly remarked, but, do we have the reasons to believe that Europeans – those Britons and the Frenchmen in particular – are such a particularly nasty bunch? Any Parliament anywhere is a show, where not all the acts – and certainly not the wasteful staging, like the moving Brussels-Strasbourg circus, which is of course shameful – are to everyone's enjoyment. Yet, it will not be difficult to achieve broad consensus that articulated debility and the promotion of hatred and obscurantism as of themselves contribute little to the solution of any problems, which Europe is facing today, thus failing *per se*, to make a contribution to the pro-active democratic process aimed at improving people's lives. A distinction between the EU- and the Member State-level is most instrumental here: while the rise of UKIP tells a convincing story of the miserable quality of the British political life, whether it is of any consequential nature for the functionality and legitimacy of the EP is a rather different matter. Isn't it wonderful that the UK and France are not alone in the Union?

The argument in what follows is simple: the EP is (at least) double shielded against any tangible negative consequences of the shameful election results going beyond the results themselves, i.e. going as far as the possibility of such results actually derailing vital policies. Such double shielding is not enough, bringing about a necessity to rethink the way how the Union is to react to the racist, homophobic and other democratic noise infecting it from the homophobic, demagogic, racist and simply stupid citizens, whom the Union nevertheless is

bound to serve and to protect. How far should EU's 'militant democracy' go and whether it should save us – self-appointed reasonable people – from the elections results as the ones announced last weekend or, which is a radically different matter, from the negative effects of such results on the Union's policies, thus becomes a crucial point of discussion.

First about the double-shielding effects. 20<sup>th</sup> century history of Europe is the worst possible ode to democracy. Not enough joy. It is indispensable not to forget that the EU is a direct response to this history. That the response is technocratic and that the market has been chosen as the main tool (something that can and should be criticized, [at least at the current stage of integration](#)), is no coincidence at all. 'Europe' – either the EU, or the Council of Europe – is a way to protect the Member States from their own stupid, homophobic and racist people (among others). *This* is the main function of the Union, phrased in the Treaties as 'democracy, the rule of law' etc. etc.

In this context it is not a surprise that the likes of UKIP are not particularly happy with the EU. Indeed, the EU has been created to poison the lives of such political forces and restrain the states to the extent that the success of such forces would be difficult, if not impossible. Yet, as recent developments in the EU demonstrate with abundant clarity – take numerous Kim Lane Scheppele's writings on Hungary, for instance – this does not quite work as well as one would hope for. The EU is at the point when it is realizing how difficult it is to protect the Member States from self-inflicted harm, from 'the vile' as it were. [The tools are simply not there](#), as we are hard-pressed to discover. However, it is the hijacking of the Member States we rightly find problematic: FPÖ's Austria, Fidesz's Hungary – not the EP election results.

In a sense, the shielding of the EP from the vile has been a success due to, firstly, a natural reason: if one's programme is to hate Romanians, it is difficult to make a functioning Parliamentary group at the supranational level through uniting forces with those Romanian xenophobes thankfully accepting tax-payers money, whose only programme is to hate you. Xenophobia, as most other forms of hatred, is by definition parochial and the EP is the worst possible place for it: not the soil where it can bring dangerous fruit. Secondly, the EP is shielded from the vile by the very design of the inter-institutional balance: it is easier to agree with what the Commission, proverbially acting in the EU interest, proposes, than to disagree with that. Even if the xenophobes will somehow end up being unfaithful to their own election promises and decide one day to tame their hatred towards the supposed 'other' sitting next to them at the plenary, the structural involvement of the EP in the decision-making process will make it exceedingly difficult to capitalize on such unfaithfulness with regards to the xenophobes own 'ideas'.

Keeping such 'double shield' in mind, we can as well stop worrying and continue loving the European Union ([paraphrasing Gareth Davies](#)). Yet, the current state of affairs is most probably deficient, as the importance of the national elections results is naturally inflated and does not acquire proper contextualizing, which should necessarily take all the richness of the political landscape emerging at the supranational level into account. The remedies against turning EP elections into xenophobic crusades of the vile are seemingly simple and the Treaty – since many years ago – contains a way of solving this problem.

To make the EP a full-fledged Parliament (I disagree with Ulad that it is not a Parliament, believing that the ECtHR got it more or less right in [Matthews](#) in response to quite unfortunate UK claims: it *is* a Parliament and a special one at that), so to make it a full-fledged Parliament it is difficult to avoid real elections. These can only take place based on one electoral law, proposed by the EP itself, as the Treaties so require. The fact that the Council has been refusing to play along in bringing about clear European EP election rules is a scandal: the Member States should be rightly ashamed of obstructing reform – a clear unified procedure throughout would create an all-EU playing field enabling to go away from the current reality of fragmentation: the resulting EU-level mosaic does not quite emerge in all the heads.

More importantly, however, besides making EP elections truly European, one should ponder very seriously on the question of the eventual undermining of the institutional balance – the fundamental principle which has been working so well in the past. Regrettably, the *Spitzenkandidaten* idea can only be viewed as a step in precisely such a direction. Tying the Commission to the EP even more might result in undermining the Commission's main virtue, which is the technocratic impartial wisdom (visible to an idealistic eye at least) in the face of the other

institutions which are politicized and concerned with something quite different from EU's own interest. Once EU interest is politicized, is it not quite a supranational interest any more, the firewall between the vile and the coldhearted is then shattered. Whether this is the result we should want to achieve is a question open to debate. No doubt, politicization can help increasing the hype around the EU – akin to UKIP's hype – thereby pushing the Commission in the realm of the *irrational* political interest, which is often antithetical to the concerns of justice, fairness and long-term vision and undermining the basics of institutional balance. So do we want this for the EU?

---

LICENSED UNDER CC BY NC ND

SUGGESTED CITATION Kochenov, Dimitry: *'My dear, the Noise, the People...': On Fears about Assemblies*, *VerfBlog*, 2014/5/31, <http://verfassungsblog.de/dear-noise-people-fears-assemblies/>.